

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

June 28, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF JUNE 14, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

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BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years.)

Intents to Appeal in June 2006	_____
Total Intents to Appeal to Date	_____
Appeals Docketed in June 2006	_____
Total Appeals Docketed to Date	_____
Appeals Packets Completed in June 2006	_____
Total Appeals Packets Completed to Date	_____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	405
February	302	420	405	421	435	320
March	421	320	470	513	400	506
April	372	559	526	416	406	259
May	612	589	359	325	187	592
June	421	384	446	486	517	
July	410	511	367	320	372	
August	549	426	345	386	345	

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September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, July 12, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information
Contact**

Janet M. Eagan
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751

oshappeals@dir.ca.gov

<http://www.dir.ca.gov/oshappeals/>

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, June 28, 2006

10:00 a.m.

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: June 16, 2006

RE: Closed Session of the Board on June 28, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. S.C. VALLEY ENGINEERING, INC., 03-R3D2-3523
2. SHERATON SERVICES, 04-R2D3-722 AND 723

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ABC WINDOW COMPANY, 05-R3D2-524 AND 525
2. A.G. SPANOS CONSTRUCTION, INC., 05-R2D2-3107 THROUGH 3109
3. A.P. ENGINEERING CORPORATION, 05-R4D2-3196
4. ACE LATHING, INC., 05-R1D5-3540 AND 3541
5. ANDERSON DRILLING, 05-R3D3-911 THROUGH 912
6. ASI TRUSS WORKS, INC., 05-R4D4-1713/1714
7. AZUSA UNIFIED SCHOOL DISTRICT SIERRA HIGH SCHOOL, 05-R4D4-3777
8. BMN BUILDING, INC., 05-R2D5-4544
9. BALLEIT BROTHERS CONSTRUCTION CORPORATION, 05-R6D1-2023 THROUGH 2025
10. BARNETT CONSTRUCTION, 05-R3D2-2326
11. BENJAMIN FRANKLIN MIDDLE SCHOOL, 05-R2D2-4365 AND 4366
12. BLOIS CONSTRUCTION, INC., 05-R4D3-1481
13. BLOSSOM VALLEY CONSTRUCTION, 05-R2D2-4367
14. BROEGE WM CONSTRUCTION, 06-R2D5-0040 AND 0041
15. CAL-INDUSTRO SCREW PRODUCTS, INC., 05-R4D1-3341
16. CHAPARRAL CONCRETE, INC., 05-R5D2-2757 THROUGH 2759
17. CLARK CONSTRUCTION, 03-R4D1-3607 THROUGH 3609
18. CLOVERLEAF CONSTRUCTION COMPANY, INC., 05-R2D2-4196

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19. CUSTOM AIRE, 05-R2D5-3126 AND 3127
20. DEL PUERTO HARVESTING, 05-R6D2-2869
21. DEL PUERTO HARVESTING, 05-R6D2-2870
22. DEL PUERTO HARVESTING, 05-R6D2-2871
23. DESIGNER PRINTING, 05-R1D3-3839
24. DESIGN 7, INC., 04-R4D1-240 THROUGH 242
25. DEVELOPERS DIVERSIFIED REALTY, 05-R4D2-3194 AND 3915
26. DIAMOND OF CALIFORNIA, 05-R2D4-4536 THROUGH 4541
27. DIANA'S MEXICAN FOOD PRODUCTS, 05-R4D4-1715/1717
28. DIVERSE STAFFING SOLUTIONS, 05-R3D5-1249
29. DIXIELINE LUMBER COMPANY, 06-R3D3-2079 THROUGH 2082
30. E & J GALLO WINERY, 03-R2D7-4883 AND 4884
31. EAST PALO ALTO PUBLIC WORKS, CITY OF, 05-R1D3-1570
32. EDELBROCK FOUNDRY CORPORATION, 06-R3D3-1437 AND 1438
33. EXEL, 05-R2D4-4089
34. FALCON METALS, INC., 05-R3D2-4106 THROUGH 4111
35. FENCE MENDERS, INC., 05-R6D2-4485 THROUGH 4487
36. FLINTCO CONSTRUCTIVE SOLUTIONS, INC., 05-R2D1-3854 AND 3855
37. FOSTER FARMS DAIRY, 05-R4D3-1483
38. GARZA FARMS, 05-R2D4-4390
39. GOLD COAST BAKING CO., INC., 03-R6D2-4706 THROUGH 4716
40. GOLDEN GATE CONCRETE CUTTING, INC., 05-R3D1-4408

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41. HANSON AGGREGATES, INC., 05-R5D2-4165
42. HARTWELL CORP., 05-R6D2-3701 THROUGH 3704
43. HERMAN HAHN CUSTOM FURNITURE, 05-R4D3-469
44. HOME STORAGE SYSTEMS, INC., 05-R6D2-2042
45. IMPRESSIONS PAVING, 03-R2D3-5176
46. INDALEX WEST, INC., 05-R4D4-1047 THROUGH 1049
47. JSO, INC., dba AMERICA'S LABOR SUPPLY, 05-R3D3-2834
48. JERRY LEE FORD CONSTRUCTION, 05-R2D3-4527
49. JESUS SILVA PULIDO FARM LABOR, 06-R2D4-215
50. JUGUYEN, INC., 05-R1D4-4228 THROUGH 4234
51. KMP ENTERPRISES dba POWELL ELECTRIC, 04-R4D1-334 THROUGH 336
52. KETTLE TYME, 06-R3D2-1156 AND 1157
53. KIMCO STAFFING SERVICES INC., 03-R3D3-4907
54. LADELL P. WALTON PLASTERING, 05-R2D3-3545 AND 3546
55. LIONS DEN, INC. dba WASA SUSHI, 05-R3D5-1950
56. LIVINGSTON CONCRETE SERVICE, INC., 04-R2D1-465 AND 466
57. LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES, 05-R4D2-3775
58. LYON BROTHERS PLUMBING, 05-R2D4-4535
59. MODERN AIR MECHANICAL CONTRACTORS, 05-R2D4-3937
60. MOUNTAIN TREE SERVICE, 05-R6D2-2056 THROUGH 2058
61. NORTON PACKAGING, INC., 04-R4D2-4586 AND 4587
62. OUTSOURCE FLEET SERVICES, INC., 04-R2D1-4365 AND 4366

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63. OWENS CORNING, 05-R4D2-543 THROUGH 545
64. OXNARD SCHOOL DISTRICT-ROSE AVENUE SCHOOL, 05-R4D3-1487
65. OXNARD SCHOOL DISTRICT – HAYDOCK SCHOOL, 05-R4D3-1491
66. PARAMOUNT CITRUS, 05-R2D5-4094
67. POMPEROY CORPORATION, 05-R1D5-2078 AND 2079
68. PROFESSIONAL WOOD PRODUCTS, INC., 05-R3D3-1086
69. RD CONSTRUCTION, 05-R4D2-3189 AND 3190
70. RJ CONSTRUCTION, 05-R4D2-3192 AND 3193
71. REMEDY INTELLIGENT STAFFING, 05-R2D4-4531
72. SBC, 05-R2D3-3482
73. S & J AUTO WRECKING & USED PARTS SALES, 03-R3D5-3576 AND 3577
74. SANTA FE AGGREGATES, INC., 05-R5D1-3731
75. SCORPION BACKHOE, INC., 05-R3D3-1447 THROUGH 1449
76. SEALED AIR CORP., 04-R4D4-495 THROUGH 499
77. SEAL METHODS, INC., 05-R4D4-4463 THROUGH 4466
78. BILL SHEPPARD, 05-R2D3-3279
79. SIERRA POINT LUMBER, 05-R1D3-4516
80. SIMPLEX GRINNEL, 05-R2D1-3275
81. STARBUCKS COFFEE COMPANY, 05-R4D4-1640
82. SUNNY VALLEY SMOKED MEATS, INC., 05-R2D4-4088
83. SUNRISE INDUSTRIES, INC., dba POMONA VALLEY RECYCLING, 05-R4D4-849 THROUGH 854

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84. SUN VALLEY PAPER STOCK, INC., 05-R4D3-1628 THROUGH 1630
85. SYUFY ENTERPRISES dba SACRAMENTO 6 DRIVE-IN, 05-R2D1-1864 AND 1865
86. TXI-PACIFIC CUSTOM MATERIALS, 04-R5D2-500
87. TWR FRAMING, 05-R3D2-895 THROUGH 897
88. TAORMINA INDUSTRIES, LLC, 05-R3D1-3129
89. TEMEKA, INC., 05-R3D3-1451 AND 1452
90. TIDWELL EXCAVATION, 05-R4D3-1200 AND 1201
91. TOP PRODUCTIONS, INC., 05-R1D3-4055 AND 4056
92. TRANE COMPANY, A DIVISION OF AMERICAN STANDARD, 04-R2D5-4527
THROUGH 4529
93. TRIPLE A CONTAINERS, 05-R3D5-2241 THROUGH 2242
94. TUOLOMONE CORP dba CAMARO CORP., 05-R1D2-3833 THROUGH 3835
95. ULM BROTHERS, 05-R6D2-2048 AND 2049 AND 05-R6D2-2050
96. UNIFIED WESTERN GROWERS, 05-R4D2-836 AND 837
97. UNION ASPHALT, INC., 05-R5D2-2360 AND 2361
98. VERTEX CHINA, INC., 05-R4D4-1255 THROUGH 1257
99. WAL-MART STORES, INC. WAL-MART DISTRIBUTION, 05-R3D3-2833
100. WEISS SHEET METAL, 05-R6D2-3077 THROUGH 3082
101. WEST COAST METAL FINISHING, 05-R6D2-168 THROUGH 175
102. WM. BOLTHOUSE FARMS, 05-R2D5-3549 AND 3550

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. ASSOCIATED ENGINEERING & CONSTRUCTION, 03-R1D4-5013 THROUGH 5015

2. DONALD BAKER, 03-R1D1-4616 AND 04-R1D1-1708

PETITION FOR COST DECISION:

1. ASCENTIAL ROOFING COMPANY, P06-3358-001/03-R6D1-3358

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. AC FRAMERS INC., 03-R2D3-3475
2. GHILOTTI BROTHERS CONTRACTORS, INC., 03-R1D5-2051
3. GLASS PAK, 03-R2D2-0750 AND 0751

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
ACTION: Discussion and Vote on Decision After Reconsideration Draft.
2. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
3. BLUE DIAMOND MATERIALS, 02-R5D2-1268
4. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
5. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
6. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
7. CITY OF LOS ANGELES FIRE DEPARTMENT, 03-R2D5-3960
8. COX COMMUNICATIONS, 03-R3D2-1942

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9. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
10. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
11. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
12. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
13. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
14. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
15. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
16. IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 THROUGH 2780
17. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
18. K. A. BINE CONSTRUCTION, 03-R1D5-2031
19. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
20. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
21. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
22. LONG BEACH CITY COLLEGE, 03-R3D5-2747
23. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
24. LOWPENSKY MOULDING, 03-R1D1-3405
25. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
26. McDONALDS #10660, 03-R1D3-4116 & 4117
27. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
28. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
29. PMR RACE CARS, 03-R3D3-1824 & 1825
30. POUK & STEINLE, INC., 03-R4D2-1495 & 1496

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31. RII PLASTERING INC., 02-R3D1-2679
32. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
33. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
34. STILES PAINT MANUFACTURING, 02-R1D4-1630
35. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
36. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
37. TRIO METAL, 03-R4D4-0316 & 0317
38. UNITED AIRLINES, 00-R1D5-2844
39. WAREHOUSE DEMO SERVICES, 03-R1D4-3427
40. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. TUTOR-SALIBA-PERINI (03CS803), 03CS00202 (97-3209/12)
3. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
4. TEICHERT AGGREGATES, 03CS00659 (01-1193)
5. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
6. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
7. ARB, INC., 03CS01454 (01-2119)
8. MOUNTAIN CASCADE, 03CS01655 (01-3561)

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9. RUDOLPH & SLETTEN, 04CS00540 (01-478)
10. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
11. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
12. BLF FRAMING, INC., 04CS01618 (02-1837/38)
13. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT

1. BRAGG CRANE, (LA) B182094 (BS091587) 01-2428
2. TEICHERT CONSTRUCTION, C050709(02CS00517) 98-2512
3. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
4. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.